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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,122	02/04/2004	David S. Majkrzak	C136.12-0016	4277

27367 7590 11/17/2006

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MINNEAPOLIS, MN 55402-3319

EXAMINER

TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/772,122

Applicant(s)

MAJKRZAK, DAVID S.

Examiner

Alicia M. Torres

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4 and 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/14/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poget FR 2 595 190 in view Henderson 172,736.

Poget discloses a knife section shown on the right in the figure for mounting on a reciprocating sickle bar for a harvester and reciprocating during use across an edge of a stationary sickle guard, the knife section being flat and having a top surface plane and comprising a base with a laterally extending base edge, the knife section having a leading end transverse to the central plane of the knife section spaced from the base edge, mounting holes in the base for securing the knife section to a sickle bar, the knife section having a central dividing plane perpendicular to the top surface plane of the knife section and bisecting the top surface plane between the base and leading end, and the base having side edges parallel to the central dividing plane, the leading end being of substantially less lateral width perpendicularly to the center dividing plane than a width between the side edges of the base, as defined by the base edge, a pair of cutting edges, one on each side of the knife section and each cutting edge defining a cutting line that is part of a circle that continually moves away from the center plane of the knife section at a greater rate for each increment of distance in direction from the leading end to the base along the cutting plane adjacent the base than at the leading edge from a first end of

Art Unit: 3671

such cutting line adjacent the leading end to a second end of the cutting line at a junction of the cutting line with a respective side edge on the respective side of the base of the knife section, and each cutting line being concave with respect to a straight line between the first and second ends of the respective cutting line being about 14% of the length of the straight line, such that the opening between adjacent knife sections placed edge to edge on a sickle bar results in increased feed area for crop material that is cut with reciprocation of the knife section when installed on a sickle bar.

However, Poget fails to disclose wherein the side edges of the base have a length of between 40% and 50% of a distance from the base edge to the leading end; and

Wherein the cutting edge is serrated.

Henderson discloses a knife section (A) with a serrated cutting edge wherein the side edges of the base have a length of between 40% and 50% of a distance from the base edge to the leading end.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the side edges of Henderson on the knife section of Poget in order to enable easy handling for sharpening.

### ***Response to Arguments***

3. The examiner maintains the rejection of claim 1 under 35 USC 103(a) Poget in view of Henderson. The applicant has failed to set forth the range around 14% of which the ratio of the lines can vary. Poget's ratio is about 7%. Nowhere in the specification does the applicant preclude a 7% ratio from being "about 14%".

Art Unit: 3671

Furthermore, the examiner would like to point out that the ratio of lines in the Pierson 912,164 reference, as cited by applicant, is about 13%, which, in light of the vague specification, most definitely qualifies as “about 14%”.

In response to applicant's argument that the invention of Poget and Henderson does not have the efficiency and capacity of the invention, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3671

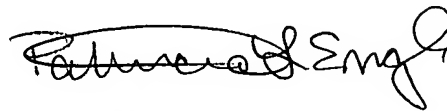
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 571-272-3600. The fax number for this Group is 571-273-8300.

**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
November 7, 2006



**PATRICIA ENGLE**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**